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Filing date: **08/05/2008**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91173105
Party	Defendant Michael Dalton
Correspondence Address	Michael Dalton Box 18137 670 Northland Blvd. Cincinnati, OH 45218-0137 UNITED STATES DALTONME@hotmail.com
Submission	Opposition/Response to Motion
Filer's Name	Michael Dalton
Filer's e-mail	DALTONME@hotmail.com
Signature	/Michael Dalton/
Date	08/05/2008
Attachments	OppositionTimeExtension.pdf (12 pages)(376000 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Honda Motor Co. LTD	:	
	:	
Opposer	:	
	:	
vs.	:	Opposition No. 91173105
	:	
Michael Dalton	:	
	:	
Applicant	:	

**DEFENDANT'S OPPOSITON TO PLAINTIFF'S MOTION
TO EXTEND TIME FOR TESTIMONY PERIOD**

Now comes, Michael Dalton, Defendant – Applicant, and hereby moves the Board to deny opposor's, Honda Motor Co. Ltd, motion to extend time for the testimony period, as the granting of such would constitute an unreasonable delay.

The 'Board' lacks jurisdiction over the 'Opposer', domiciled in Japan, and these proceedings were initiated, some nineteen months ago, on September 27, 2006.

'Opposer' has been aware of the current scheduling order since February 29, 2008.

'Opposer' has failed to sign their motion pursuant to Rule 11.

Opposor, additionally, has of record two attorneys and this last minute request demonstrates a lack of diligence.

Opposor's alleged co-council failed to mention, or present as argument, the claim of emergency medical treatment in their extra-judicial request, as such, the unsubstantiated medical treatment argument is waved and the doctrine of estoppels should prevail.

‘Opposer’ has failed to demonstrate that they have exhausted all remedies to compel testimony of their witness and ‘Opposor’s’ council has had the opportunity, since February 29, 2008, to make arrangements for the commute from New York to California.

‘Applicant’ asserts all affirmative defenses as presented in their answer, incorporated herein by reference.

‘Applicant’s’ objections are more fully discussed in his memorandum of opposition, incorporated herein by reference.

Therefore:

The motion to extend time should be denied.

Memorandum in Opposition

Applicant incorporates all defenses as presented in their answer and would reiterate that the ‘Board’ lacks personal jurisdiction over the Opposer, Honda Motor Company, LTD.

The Opposer is an alleged entity organized under the laws of Japan, located and doing business at 1-1, 2-Crome, Minami-Aoyama, Minato-Ku, Tokyo 102-8556, Japan which is not within the districts for which this ‘Board’ has jurisdiction nor, has the ‘Opposer’ claimed protection under Title XII – The MADRID PROTOCOLL. The ‘Board’ lacks personal jurisdiction over the ‘Opposer’.

The 'Opposer' has failed to sign their motion for time extension, pursuant to Rule 11. Additionally, the 'Opposer' has failed to sign their certificate of service, therefore; 'Opposor's' motion should be denied or stricken.

The 'Opposer' made an extrajudicial attempt to extend the time for their testimony period. During that request the 'Opposer' made no claim of medical leave, *see exhibit(A) (Affidavit) and exhibit(B)*, therefore; The current claim of an alleged medical leave, on the surface, appears less than genuine. The 'Opposer' failed to state the identity of the individual that needed medical attention and leaves the 'Board' and 'Applicant' to speculation.

The 'Applicant' can't find, of record, a notice of representation of Dyan Finguerra-DuCharme.

In addition to the alleged co-council, Dyan-Finguerra-DuCharme, the record indicates that 'Opposer' has two additional attorneys', Mark G. Matuschak and Cora Tung Han that have filed documents in this matter. These fillings demonstrates that several, assumed competent, individuals have knowledge of this matter, *see record*.

'Opposor's' claim of medical leave hindrance is unsubstantiated and was waved during extrajudicial efforts and this 'Board' should invoke the doctrine of estoppels.

'Applicant', hereby, makes demand for wavier and estoppel coupled with the denial of Opposor's motion.

Opposer, additionally, seems to assert scheduling issues with a claimed key witness.

Opposer fails to mention the identity of their key witness, which leaves the Applicant and Board to speculate and fails to provide evidence that would support efforts

made to compel testimony. Applicant must speculate that the key witness would be an official of the Opposor's organization, for which, the Opposer has had notice of the testimony period since February 29, 2008. The claim of demanding work schedule and desired vacation seems, on surface, to be one of convenience and not good cause for an extension of time. Certainly, the Applicant and Board have demanding work schedules and vacation obligations, but are both forced to address the 'Opposor's' demands under demanding defined time constraints.

The Opposer has several options to compel testimony and has demonstrated a willingness to make demands, with threat of sanctions, of Applicant to compel deposition testimony, *see exhibit C*.

The Opposer provides no evidence of equal treatment efforts to compel testimony of their alleged key witness, which may very well be the agent for Opposor's organization.

The Opposer initiated this action and, as such, has placed the Applicants intellegual property rights at issue. The Applicant's rights are diluted by Opposor's claims. The Opposer has had more than sufficient time to notice and compel the testimony period of their key witness, which may, in fact, be a mere agent of the Opposer.

Thus, the Opposer has not demonstrated diligence to compel testimony, nor have they established more than a convenience argument, which fails to establish good cause.

As such, the Applicant moves the board to deny the Opposor's motion for time extension.

Respectfully submitted,



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Certificate of Service

I, Michael Dalton, hereby certify that this Opposition to Opposor's Motion for Time Extension has been served by electronic email upon Opposor's council Mark Matuschak, mark.matuschak@wilmerhale.com, Cora Han, cora.han@wilmerhale.com and standard U.S. mail upon Mark Matuschak and Cora Han at Wilmer Cutler Pickering Hale and Dorr LLP, 60 State Street, Boston, MA 02109 and Dyan Finguerra-DuCharme at Wilmer Cutler Pickering Hale and Dorr LLP, 399 Park Ave, New York, NY 10022 this 5th day of August 2008.



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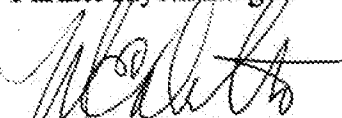
Exhibit A

Affidavit of Michael Dalton
In Response
To
Opposor's Motion for Time Extension

I, Michael Dalton, being duly sworn and cautioned state as follows:

- 1.) Opposer made an extrajudicial request for an extension of time, via email transmission, and did not mention any claims of emergency medical treatment.
- 2.) Through knowledge and belief, Opposor's key witness is merely an agent, employee or affiliate of the Opposer.
- 3.) That applicant has had an increased dilution of the claimed mark as a result of the Opposor's claims in this matter.
- 4.) That he has had his work load infringed as a result of Opposor's pending motion for time extension and their failure to adhere to the ordered testimony period.
- 5.) That he has had his vacation period disrupted as a result of Opposor's pending motion for time extension and their failure to adhere to the board's ordered testimony period.
- 6.) That the claimed mark will continue to experience dilution until this matter is resolved.
- 7.) That Opposer made time specific demands for applicant's deposition testimony with threat of sanctions.
- 8.) That Opposer has failed to provide good cause for time extension.
- 9.) That Opposer has failed to demonstrate diligence to compel the testimony of their alleged witness.
- 10.) That a time extension in this matter would be an unreasonable delay.

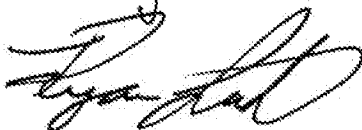
Further sayeth naught?



Michael Dalton

Sworn before me this 5th day of August, 2008

Before Ryan Lutz Notary Public



RYAN LUTZ, Notary Public
In and for the State of Ohio
My Commission Expires July 2, 2012

Exhibit B

DALTONME

From: "Finguerra-DuCharme, Dyan" <Dyan.Finguerra-DuCharme@wilmerhale.com>
Date: Saturday, July 19, 2008 7:44 AM
To: <DALTONME@hotmail.com>
Subject: Honda's Testimony Period

Michael,

I hope that you are enjoying your summer.

Honda's testimony period has opened and I am having some scheduling difficulties. I was hoping that you would agree to a 90-day extension of time. Let me know and I'll take care of the filing.

Thanks,
Dyan

Dyan Finguerra-DuCharme
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Exhibit C

DALTONME

From: "Finguerra-DuCharme, Dyan" <Dyan.Finguerra-DuCharme@wilmerhale.com>
Date: Monday, April 28, 2008 11:31 AM
To: "DALTONME" <DALTONME@hotmail.com>
Subject: RE: Deposition

From: Finguerra-DuCharme, Dyan
Sent: Monday, April 28, 2008 11:19 AM
To: DALTONME@hotmail.com
Cc: Matuschak, Mark
Subject: Deposition

Dear Mr. Dalton,

Please let me know by the close of business tomorrow, April 29th, whether you will be attending your deposition scheduled for May 5th. For convenience, I am attaching the notice of deposition, which was mailed to you a few weeks ago. If this date does not work for you, please suggest alternate dates before the close of business tomorrow.

If you fail to appear for deposition, American Honda will seek sanctions.

Very truly yours,

Dyan Finguerra-DuCharme
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+1 212 230 8888 (f)
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